

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

MUROC JOINT UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2013100631

ORDER GRANTING REQUEST FOR
SECOND CONTINUANCE AND
SETTING MEDIATION, PREHEARING
CONFERENCE AND HEARING

On October 17, 2013, Student filed a request for due process hearing and mediation (complaint) before the Office of Administrative Hearings (OAH). OAH scheduled the due process hearing to begin on December 11, 2013. On November 26, 2013, the parties jointly filed an initial request to continue the dates in this matter, seeking a continuance of the hearing dates to April 7-10 and 14-17, 2014, on the ground that they had reached an interim agreement that contemplated assessments of Student, and an IEP meeting that they contended might resolve the matter without the need for a hearing. On November 26, 2013, OAH granted the initial continuance. On March 10, 2014, the parties jointly filed a request for second continuance, seeking an additional three weeks to commence the hearing on April 28, 2014, on the ground that the assessments contemplated by the interim agreement had not yet been completed and the IEP meeting not yet been convened.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Granted. All dates are vacated. The parties have established good cause for a continuance. However, given the generous extension of time already granted in this matter, OAH does not contemplate granting any further continuances in this matter.

This matter will be set as follows:

Mediation:	April 10, 2014 at 9:30 AM
Prehearing Conference:	April 18, 2014 at 10:00 AM
Due Process Hearing:	April 28-May 1 and May 5- 8, 2014, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge. The hearing shall start at 1:30 p.m. on April 28 and May 5, and at 9:00 a.m. on all other hearing days, unless otherwise ordered.

IT IS SO ORDERED.

DATE: March 10, 2014

_____/s/
JUNE R. LEHRMAN
Administrative Law Judge
Office of Administrative Hearings